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California Regional Water Quality Control Board Santa Ana Region

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Arnold Schwarzenegger
Governor

May 10, 2007

Andrew Oshrin
Department of Transportation (Caltrans)
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION
FOR THE PROPOSED ANAHEIM BAY ROCK SLOPE PROTECTION AND DRAINAGE
MAINTENANCE PROJECT, CITY OF SEAL BEACH (ACOE REFERENCE NO.
200601969 – SJH)**

Dear Mr. Oshrin:

On November 2, 2006, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the proposed Anaheim Bay Rock Slope Protection and Drainage Maintenance Project in the City of Seal Beach. Regional Board staff found that Caltrans' use of a Categorical Exemption to satisfy the requirements of the California Environmental Quality Act (CEQA) for this project was inappropriate, conveyed this to Caltrans staff, and subsequently prepared a Mitigated Negative Declaration (MND) for the issuance of this Certification. The MND was sent to the State Clearinghouse on March 16, 2007 for distribution. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description:

Reconstruction of the northeast abutments and roadway embankments of the Anaheim Bay Bridge at Pacific Coast Highway. The storm drain system will also be reconstructed in order to provide adequate drainage and protection for the slopes and abutments from erosion. The abutments and embankments will be constructed to a 1.5:1 slope with a rock slope protection overlay that will join the existing rock slope protection at the toe. Erosion control blanket will be placed up to the top of the slope. Two metal beam guard rail ends will be replaced. A new chain link fence will be installed, a maintenance vehicle pull-out will be constructed, existing storm drain pipes will be lined, four new storm drain inlets will be constructed and seven outfalls will be reconstructed along with new rip-rap energy dissipation. Landscaping will be installed

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and impacted wetlands will be restored. The rock slope protection will be placed along 311 meters (1,020 linear feet) of shoreline and an additional 273 meters (896 linear feet) of shoreline will be impacted by grading. The estimated construction period is three months. The site is located within an un-sectioned portion of Township 5 South, Range 12 West of the U.S. Geological Survey *Seal Beach, California*, 7.5-minute topographic quadrangle maps (33.73227 degrees N/-118.08485 degrees W).

Receiving water: Anaheim Bay.

Fill area: See Table 1 below.

Table 1: Fill Impacts to Waters of the U.S.

| | Impacts to Waters of the U.S. (acres) | |
|-----------|---------------------------------------|-----------|
| | Temporary | Permanent |
| Shoreline | 0.211 | 0.02 |
| Wetland | 0.08 | 0.003 |

Dredge/Fill volume: Not applicable.

Federal permit: U.S. Army Corps of Engineers Permit No. 3, 13, and 33.

This certification addresses impacts to water quality standards associated with the dredging or filling of waters of the United States. Construction and post-construction discharges of storm water runoff from the project and use of the roadways are addressed by waste discharge requirements issued to the Caltrans by the State Water Resources Control Board in Order No. 99-06 DWQ. These requirements include the development and implementation of appropriate Best Management Practices for the purpose of removing construction-related and transportation-related pollutants from discharges from Caltrans' rights-of-way and easements.

You have applied for coverage under Nationwide Permits from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Coastal Development Permit from the Coastal Commission. Pursuant to the California Environmental Quality Act (CEQA), the Regional Board staff prepared a mitigated negative declaration (State Clearinghouse No. 2007031105) and submitted it for circulation to the State Clearinghouse on March 20, 2007. The comment period closed on April 20, 2007.

The Executive Officer hereby finds, based on the mitigated negative declaration, that the impacts of the project have been mitigated to a level that is insignificant. Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in the mitigation measures identified in the Mitigated

Negative Declaration, required as part of this Certification, and developed in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game, will ensure those impacts are mitigated to a level that is less than significant. The Executive hereby adopts the mitigated negative declaration.

This 401 Certification is contingent upon the execution of the following conditions:

1. Using generally accepted protocols, the discharger shall survey for *Caulerpa taxifolia*, an invasive marine seaweed, to help locate and prevent its spread. If *Caulerpa taxifolia* is found prior to or during implementation of the project, the applicant shall not begin or continue at that location until authorized by Regional Board staff. If the invasive seaweed is discovered, it is not to be disturbed, and the Regional Board shall be notified within 48-hours of the location and date of the discovery. In addition, any sightings of *Caulerpa taxifolia* should be reported to the California Department of Fish and Game (William Paznokas at (858) 467-4218 (wpaznokas@dfg.ca.gov)) or the National Marine Fisheries Service (Robert Hoffman at (562) 980-4043 (bob.hoffman@noaa.gov)) within 24-hours of discovery. Further information regarding *Caulerpa taxifolia* sightings can be obtained at www.sccat.net. Should no *Caulerpa* be observed during the project, the applicant shall notify the Regional Board of this fact when all construction has been completed. Please contact Wanda Cross at (951) 782-4468 concerning issues related to *Caulerpa taxifolia*.
2. Materials shall not be placed in a manner where they could be discharged to surface waters except as authorized by this certification. In the event that trash or debris is discharged to surface waters, the discharger shall recover the material to the maximum extent practical.
3. Earth disturbing activities below the elevation of tidal influence shall occur only during periods of low-tide.
4. Waste discharges shall not result in deposition of oil, grease, wax, or other materials in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses.
5. Project-related activities shall not cause the background natural turbidity, as measured in Nephelometric Turbidity Units (NTUs), in the receiving waters to be increased by values greater than the following Basin Plan objectives at a distance of 100 feet from the activity:
 - a. If natural turbidity is between 0 and 50 NTU, the maximum increase shall not exceed 20% of the measured natural turbidity.
 - b. If natural turbidity is 50 to 100 NTU, the increase shall not exceed 10 NTU.
 - c. If natural turbidity is greater than 100 NTU, the maximum increase shall not exceed 10% of the measured natural turbidity.
6. An effective monitoring plan shall be developed and implemented to document compliance with conditions 2, 3, 4, and 5 above. Any suspected violation of these conditions shall be reported to Regional Board staff in writing within 24-hours of discovery. The monitoring plan and records of monitoring activities shall be maintained on site for the duration of the proposed discharge and be available for inspection by Regional Board staff.



Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.



May 10, 2007

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Stephanie Hall
State Water Resources Control Board, OCC – Erik Spiess
State Water Resources Control Board, DWQ-Water Quality Certification Unit –
Nancy Dagle
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR – 8 – Tim Vendlinski

APF:401/certifications/anaheim bay bridge 302006-11

